

There came on for consideration at a duly constituted meeting of the Mayor and Members of the City Council of the City of Gulfport, Mississippi, held on the 7th day of April, 2009, the following Ordinance:

ORDINANCE NO. 2624

**AN ORDINANCE AMENDING SECTIONS
-60, 7-65, 7-101, 7-112, 7-117, 7-118, 7-123
OF AND ADDING A NEW SECTION (SECTION 7-67) TO
THE CODE OF ORDINANCES OF THE
CITY OF GULFPORT, MISSISSIPPI**

WHEREAS, the Gulfport City Council has enacted various ordinances over time concerning the care and control of and the prevention of cruelty to animals, which ordinances have been codified as Chapter 7, Article III of the Code of Ordinances of the City of Gulfport, Mississippi; and

WHEREAS, the City's Animal Control Ordinances have not been amended in almost ten years, during which time certain technological advances and advances in veterinary medicine have occurred which facilitate the return of lost animals to their owners and encourage more humane methods of euthanasia of certain animals; and

WHEREAS, the Gulfport Police Department has worked with the Humane Society of South Mississippi, Inc., to develop the amendments contained herein and are of the opinion that these amendments will improve the City's ability to ensure that animal welfare is protected within the boundaries of Gulfport; and

WHEREAS, the current wording of the sections for which amendments are proposed is attached hereto collectively as Exhibit "A".

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF
THE CITY OF GULFPORT, MISSISSIPPI, AS FOLLOWS:**

SECTION 1. That the matters and things set forth in the above preamble are hereby accepted as stated as the findings of the Gulfport City Council.

SECTION 2. That Chapter 7, Article III, Division 1, Section 7-60 of the Code of Ordinances of the City of Gulfport, Mississippi, is hereby amended to read as follows:

Sec. 7-60. Allowing free and safe movement of animals in enclosed area.

It shall be unlawful for any owner or person having possession, charge, custody, or control of any animal to have such animal confined or restricted in its movement so as to allow less than two (2) square foot of area for every pound of body weight of the animal, unless the confinement is temporary while the animal is being transported, and such confinement shall not exceed twenty-four (24) hours at one time and the animal shall be allowed to move about and exercise at least every two (2) hours during that twenty-four (24) hour period. The Humane Society of South Mississippi, Inc., veterinary hospitals, boarding kennels, and pet shops are exempt from complying with the provisions of this section, but must follow all state and federal guidelines for its operation and must be licensed and permitted by the City of Gulfport.

SECTION 3. That Chapter 7, Article III, Division 1, Section 7-65 of the Code of Ordinances of the City of Gulfport, Mississippi, is hereby amended to read as follows:

Sec. 7-65. Severely injured or diseased animals.

It shall be the duty of any police officer or animal control officer of the city to provide for the euthanasia of any animal suffering from a severe injury or disease.

(1) Euthanasia of animals pursuant to this section shall be accomplished solely by means of injection of sodium pentobarbital or sodium pentobarbital solution administered by a licensed veterinarian, a licensed veterinary technician, or animal control officer to include shelter staff who are certified in euthanasia by injection. When intravenous administration is considered impractical or impossible, intraperitoneal administration is acceptable as an alternate and accepted form of euthanasia.

(2) Any method of euthanasia other than that provided for in this section is prohibited except that euthanasia by gun-shot, with supervisory approval, is permissible as an emergency measure for an animal that is posing an imminent threat of serious physical injury to a person or to another animal and where the use of a humane and accepted methods of euthanasia as prescribed in this section is impossible or where the severely injured or diseased animal cannot otherwise be aided.

(3) No animal shall be left unattended between the time that the euthanasia begins and the time when death is confirmed. The body of a euthanized animal shall not be disposed of in any manner until death is confirmed by a licensed veterinarian, a certified euthanasia technician or a licensed veterinary technician.

SECTION 4. That the Code of Ordinances of the City of Gulfport, Mississippi, is hereby amended by adding a section, article or chapter to be numbered Section 7-67, which section reads as follows:

Sec. 7-67. Sale of Animals; prohibitions, exemptions and enforcement

It shall be unlawful to sell, trade, barter, lease, auction, give away or display a live animal on a roadside, public right-of-way, sidewalk, street, parkway or any other public property or any property dedicated to public use, a commercial parking lot, or at an outdoor special sale, swap meet, flea market, parking lot sale or similar event. This section shall not apply to the Humane Society of South Mississippi, Inc., animal welfare organizations designated as a 501(c)(3) by the Internal Revenue Service, established businesses whose sole purpose is related to the care and maintenance of pets or entities who have both a valid business license issued by the City of Gulfport and a valid Conditional Permit as required in Sec. 7-66 (b)(5) provided that prior to release of the animal it has been administered all necessary vaccinations as required by law and has been spayed or neutered. A violation of this section shall be considered a misdemeanor. Any person or entity authorized to enforce the provisions of this chapter shall have the authority to impound any animal found in violation of this section. The impounded animal may be reclaimed within five (5) days of impoundment upon payment of the costs incurred in confining and keeping of such animal during impoundment.

SECTION 5. That Chapter 7, Article III, Division 3, Section 7-101 of the Code of Ordinances of the City of Gulfport, Mississippi, is hereby amended to read as follows:

Sec. 7-101. Impoundment and Notice to Owner.

The police officer, animal officer, or other person as may be designated by the city council may seize or caused to be seized any cat whose owner, keeper, or harbinger is found to be in violation of any part of this division, and shall impound or cause to be impounded such cat in the local animal shelter. The police officer, animal control officer, or any other person designated by the city to enforce these provisions shall scan impounded cats for the presence of a microchip and shall make reasonable efforts to notify the owner of any cat with a microchip or with any other form of identification that the cat has been impounded and inform such owner of the procedure and conditions for redeeming the cat. Cats shall be held for a period not to exceed five (5) days, and if reasonable corrections are not made by the owner, keeper, or harbinger, of the cat so that the owner, keeper, or harbinger is no longer in violation of this division, then the cat shall be released to the local animal shelter. The animal officer shall

designate to the owner, keeper, or harbinger of the cat what corrective action is required to be in compliance with this division. Thereupon, the impounded cat may be reclaimed within five (5) days of impoundment upon payment of the costs incurred in confining and keeping of such cat during impoundment, payment of the cost of inserting a microchip in the cat, and where applicable, payment of the cost for spaying or neutering the cat, and upon showing proof of current rabies vaccination. All cats shall be microchipped prior to being returned to an owner or released for adoption. Cats impounded for a second or subsequent time shall be spayed or neutered prior to being returned to an owner or released for adoption. The cost of inserting a microchip and the cost of spaying or neutering shall not exceed the actual reasonable cost incurred by The Humane Society of South Mississippi, its agents or any other agency authorized by law to perform these procedures.

SECTION 6. That Chapter 7, Article III, Division 4, Section 7-101 of the Code of Ordinances of the City of Gulfport, Mississippi, is hereby amended to read as follows:

Sec. 7-112. Definitions.

In addition to the words and terms elsewhere defined in this division, the following words and terms shall have the following meanings, unless some other meaning is plainly intended:

Animal officer shall mean any police officer of the city, or any other person appointed by the mayor and city council to carry out the enforcement of any provision of this division.

At large shall mean off the premises of the owner, keeper or harbinger of any dog, and not under the control of such owner, keeper or harbinger, or of any immediate member of the family of such owner, keeper or harbinger of such dog, either by leash, cord, chain or otherwise.

Boarding kennel is a facility other than an animal hospital, city pound or any animal shelter where animals, normally dogs and cats, not owned by the proprietor, are temporarily sheltered, fed, watered and exercised in return for a fee.

Dog shall mean any canine or animal of the canine species, either male or female.

Enclosure means a fence or structure of at least six (6) feet in height, forming a confined area sufficient to prevent the entry of young children, and, in conjunction with tethering or other measures, effective in containing a vicious dog. Such enclosure shall be securely enclosed and locked and equipped with secure sides, top, and bottom, and shall be designed to prevent the animal from escaping from the enclosure.

Extreme cold means ambient or wind chill temperature of thirty two (32) degrees Fahrenheit and below.

Extreme heat means ambient, or heat index temperature in excess of one hundred (100) degrees Fahrenheit.

Extreme weather means any weather condition associated with a weather advisory, watch or warning issued by the National Weather Service.

Microchip means a rice-sized permanent identification device encoded with a unique and unalterable number. The chip is typically implanted in animals

just under the skin in the scruff of the neck or between the shoulder blades and is read by a scanner.

Micro chipped means the animal has been injected and implanted with a microchip.

Owner shall mean any person owning, keeping or harboring a dog, or controlling a dog within the corporate limits of the city.

Vicious dog or dog *having dangerous or vicious propensities* shall mean any dog which:

(1) Is known to have attacked, bitten or injured an individual, other dog or animal, or known to have attempted to attack, bite or injure an individual, other dog or animal; or

(2) Is observed by any person attacking, biting or injuring, or attempting to attack, bite or injure, any individual, other dog or animal; or

(3) Has a propensity, disposition or tendency to do any act which may reasonably be construed to endanger the safety of persons or property of other in any given situation; or

(4) If any dog bites or attempts to bite any person, other dog or animal, while such dog is running at large, then such dog biting or attempting to bite any person, other dog or animal shall be presumed to be a vicious dog or dog having dangerous or vicious propensities. If any dog attacks or attempts to attack any person, other dog or animal, while such dog is running at large, or chases or otherwise attempts to catch any person, other dog or animal, shall be presumed to be a vicious dog or dog having dangerous or vicious propensities.

SECTION 7. That Chapter 7, Article III, Division 4, Section 7-117 of the Code of Ordinances of the City of Gulfport, Mississippi, is hereby amended to read as follows:

Sec. 7-117. Enforcement.

(a) It shall be the duty of the chief of police to provide for the enforcement of the provisions of this division; and all police officers, animal officers, or other persons designated by the mayor and city council shall have the power and authority, under the supervision of the chief of police, to enforce any and all provisions hereof.

(b) Any animal officer of the city may utilize any equipment reasonable and necessary to enforce the provisions of this ordinance, including without limitation, humane wire box traps or chemical means whether by baited food or by dart gun. The animal officer of the city may lend humane wire box traps to private persons for the purpose of preventing nuisance from animals running at large.

(c) Any animal officer of the city shall be vested with powers to issue animal control related citations, summons, or other process in the same manner as other police officers of the City and shall complete the training courses of the National Animal Control Association within two years of his employment as an animal officer.

SECTION 8. That Chapter 7, Article III, Division 4, Section 7-118 of the Code of Ordinances of the City of Gulfport, Mississippi, is hereby amended to read as follows:

Sec. 7-118. Impoundment; Registry and Notice to Owner.

(a) It shall be the duty of every police officer and animal officer of the city, or other person designated by the city council, to apprehend any dog found running at large contrary to the provisions of the division, and to impound any such dog in the local animal shelter, or other suitable place. In the event no such suitable place is available, such dog may be removed to any private animal hospital or veterinary clinic or animal shelter that will take possession of such dog under such agreement as may be made with the city. Notwithstanding the above provisions in this section, any dog found running at large and not having any identification that such dog has been vaccinated for rabies, and any dog noticeably infected with rabies or other dangerous disease, and any dog displaying any dangerous or vicious propensities as defined in this division, which cannot reasonably and safely be apprehended and impounded, may be slain by any police officer or animal officer as provided in this division.

(b) The police officer, animal officer, or other person as may be designated by the city council, upon receiving any dog apprehended under this section and impounded shall make a complete registry, entering the date, time, and place of taking, the breed, color, marking, and sex of such dog, and, if known, or if it can be determined from any metal tag attached to any collared dog, the serial number of the vaccination for rabies and the year in which such dog was vaccinated, and, if known, the name and address of the owner, keeper, or harbinger of such dog. Vaccinated dogs shall be separated from unvaccinated. Additionally, the police officer, animal control officer, or any other person designated by the city to enforce these provisions shall scan impounded dogs for the presence of a microchip and shall make reasonable efforts to notify the owner of any dog with a microchip or with any other form of identification that the dog has been impounded and inform such owner of the procedure and conditions for redeeming the dog.

(c) The police officer, animal officer, or other person as may be designated by the city council may seize or caused to be seized any dog whose owner, keeper, or harbinger is found to be in violation of any part of this ordinance, and shall impound or cause to be impounded such dog in a designated shelter. Such dog shall be held for a period not to exceed five (5) days, and if reasonable corrections are not made by the owner, keeper, or harbinger, of the dog so that the owner, keeper, or harbinger is no longer in violation of this ordinance, then the dog shall be released to the local animal shelter. The animal officer shall designate to the owner, keeper, or harbinger of the dog what corrective action is required to be in compliance with this ordinance. Thereupon, the impounded dog may be reclaimed within five (5) days of impoundment upon payment of the costs incurred in confining and keeping of such dog during impoundment, payment of the cost of inserting a microchip in the dog and where applicable, payment of the cost of spaying or neutering the dog and upon showing proof of current rabies vaccination. All dogs shall be microchipped prior to being returned to an owner or released for adoption. Dogs impounded for a second or subsequent time shall be spayed or neutered prior being returned to an owner or released for adoption. The cost of inserting a microchip and the cost of spaying

or neutering shall not exceed the actual reasonable cost incurred by The Humane Society of South Mississippi, its authorized agents, or any other agency authorized by law to perform these procedures.

(d) A police dog commissioned by a recognized law enforcement agency with a current rabies vaccination who bites in the line of duty shall be exempt from confinement under this section of this ordinance, and shall be allowed to continue in a working capacity.

SECTION 9. That Chapter 7, Article III, Division 4, Section 7-123 of the Code of Ordinances of the City of Gulfport, Mississippi, is hereby amended to read as follows:

Sec. 7-123. Condition of premises where dogs kept or confined; penalties.

(a) Dogs within the city limits and while on the property of their owner, custodian or temporary caretaker, shall be restrained and confined only in the manners authorized in this section. Nothing in this section shall be construed to prohibit walking a dog with the use of a hand held leash.

(1) Any person who owns or has custody or control of a dog shall not restrain such dog by means of a tethering device attached to a fixed point. Dogs may be tethered using a running cable trolley system for periods of no more than four hours in any twenty-four hour period provided that the running cable trolley system is a suspended cable of at least ten feet in length which is attached to the tether by means of a pulley, loop or other moveable device. All tethering devices shall be attached to the dog in such a manner as to prevent injury or strangulation to the dog and entanglement with other objects and shall not be attached to the dog by means of a choke-type collar or a prong collar, or by means other than a properly fitted collar, harness or other device made expressly for such purpose.

(2) A dog may be confined within a fenced yard or enclosure as long as such yard or enclosure provides at least two square feet per pound of the animal's weight to afford the dog adequate space for exercise. Such enclosure shall be constructed of chain link or similar materials with all four sides securely enclosed. The enclosure shall be of sufficient height to prevent the dog from escaping

(3) A dog may be confined within an enclosed kennel as long as such enclosed kennel provides at least two square feet per pound of the animal's weight to afford the dog adequate space for exercise. Such enclosure shall be constructed of chain link or similar materials with all four sides and top securely enclosed and with the bottom being constructed of a material that prevents the animal from escaping or injuring itself while attempting to escape by digging under the enclosure. The enclosure shall be of sufficient height to prevent the dog from escaping.

(b) Dogs tethered or confined under the provisions of this section must be allowed access to fresh water and food sufficient for the good health of such dog. Adequate ventilation must be provided as well as shelter and shade (artificial or natural) when prevailing weather conditions, *including but not limited to*, extreme heat and sunlight, *extreme cold*, rain or other extreme weather so require and if tethered must be tethered such that the dog does not extend beyond the property of the owner, custodian or caretaker onto either public property or property owned by another. No dog shall be tethered, confined or

kept in such place or condition as to become a nuisance, either because of noise, odor, filth, or contagion of disease.

(c) Any person who knowingly violates the provisions of this section shall be guilty of a violation, punishable by a fine of not less than fifty dollars nor more than one hundred dollars for a first offense, and a fine of not less than one hundred dollars nor more than two hundred fifty dollars each second or subsequent offenses. Beginning seventy-two hours after a charge of violating this section, each day that a defendant fails to correct the deficiencies in the method used to restrain or confine a dog that he or she owns or that is in his or her custody or control, so as to bring it into compliance with the provisions of this section, shall constitute a separate offense.

(d) The court may, in its discretion, reduce the amount of any fine imposed for a violation of this section by the amount which the defendant proves he or she has spent in order to correct violations to be in compliance and meet the requirements of this section.

(e) Nothing in this section shall prevent the seizure and impoundment of a dog for a violation of this section or be construed to affect any protections afforded to dogs or other animals found elsewhere in city ordinances.

SECTION 4. All provisions of Chapter7, Article III of the Code of Ordinances of the City of Gulfport, Mississippi, not in conflict herewith shall remain in full force and effect as heretofore provided.

SECTION 5. This ordinance shall be in full force and effect immediately upon passage. It shall be published according to law and shall be spread on the minutes of the Gulfport City Council.

The above and foregoing Ordinance, after having been first reduced to writing and read by the Clerk, was introduced by Councilmember Nalley, seconded by Councilmember Resh, and was adopted by the following roll call vote:

AYES
Hollimon
Roland
Holmes-Hines
Smith
Resh
Nalley

NAYS
None

ABSENT
Carriere

WHEREUPON, the President declared the motion carried and the Ordinance adopted, this the 7th day of April, 2009.

(SEAL)

ATTEST:

ADOPTED:

CLERK OF THE COUNCIL

COUNCIL PRESIDENT

The above and foregoing Ordinance was submitted to and approved by the Mayor, this the 8th day of April, 2009.

APPROVED:

MAYOR